Supreme Court, U.S.
FILED
FEB 21 1986
JOSEPH F. SPANIOL, JR.
CLERK

No. 85-896 (3)

IN THE

Supreme Court of the United States

OCTOBER TERM 1985

CAROL C. JOHNSON,

Petitioner,

—against—

LINDEN SHORE DISTRICT,

Respondent.

MOTION FOR REVIEW AND RECONSIDERATION OF DENIAL OF PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CONNECTICUT

CAROL C. JOHNSON
Petitioner Pro Se
600 West 111th Street
New York, New York 10025
(212) 663-5445

12 1 7P

IN THE

Supreme Court of the United States

OCTOBER TERM 1985

No. 85-896

CAROL C. JOHNSON,

Petitioner,

—against—

LINDEN SHORE DISTRICT,

Respondent.

MOTION FOR REVIEW AND RECONSIDERATION OF PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CONNECTICUT

To the Honorable Chief Justice of the United States and the Honorable Associate Justices of the Supreme Court of the United States.

Carol C. Johnson, the petitioner herein prays by way of this motion that the Supreme Court of the United States review and reconsider the Petition for writ of Certiorari herein, decided on January 27, 1986 for the reasons here set forth.

This motion is made for reconsideration of Petitioner's Petition for Certiorari as he has now been coerced into paying $7,763.20 to save his home from being taken from him by way of judgment of strict foreclosure all because he refused to pay illegal taxes totaling $911.83 over a period of ten years and because Respondent's attorneys refusal to consent that the Law Date be put over to allow time for this motion to be heard and decided.

Upon receipt of notification that the Petition for Certification was denied Petitioner moved in the Trial Court to change the Law Day of February 18th, 1986 to a later date as Petitioner was preparing a Motion for Reconsideration by the Supreme Court of the United States.

Respondent's attorney opposed any change and the motion was denied on February 11th and the attorney sent me a letter dated February 11th receipt of which was delayed by the holiday of February 12th.

The original judgment was for the following:

Taxes for 10 yearly taxes	911.83
Compounded interest thereon	1,334.99
	2,246.67

The attorney's letter had the following:

Original judgment debt	$2,246.67
Interest on judgment from 5/15/84 to 2/18/86	711.85
Original attorney's fee	1,750.00
Interest on attorney's fee from 5/15/84 to 9/23/85	193.72
Additional attorney's fee	2,000.00
Interest on attorney's fee from 9/23/85 to 12/2/85	72.10
Additional attorney's fee	150.00
Interest on attorney's fee from 12/2/85 to 2/18/86	83.46
Costs as taxed	555.40
	$7,763.20

As I indicated to you in Court, I must have this sum in cash or good funds on or before Tuesday, February 18, 1986. I will forward to you a Satisfaction of Judgment and Release of Lis Pendens upon payment to me. In the event I do not have these

funds in my possession on February 18, 1986, you will lose all equity you have in the property pursuant to the judgment.

In order to keep title in my name there was no alternative but to forward a teller's check which the attorney had agreed to accept. The following letter was enclosed with the check.

February 13, 1986

John E. Donegan
7 South Main Street
Branford, Conn., 06405

Re: Linden Shore District and Carol C. Johnson

Pursuant to our telephone conversation I am enclosing the Teller's Check for $7,763.20. As stated to you and as you know as to all that has happened and the refusal to reset the Law Day over to a day that would allow for the U.S. Supreme Court to decide my motion for reconsideration I am being coerced in making the payment on or before February 18, 1986 to save title to my home and that I will seek legal relief.

Carol C. Johnson
600 West 111th St.
New York, N.Y. 10025

It is being respectfully requested that the judgment be reversed especially since the self called Linden Shore District is not a District never having complied with the provisions as to publication prescribed by C.G.S. § 7-325 under which it claimed it had been formed and therefore does not exist and never had any power to tax and that failure to give the mandatory prerequisite requirement as to publication is a jurisdictional defect preventing it being capable of obtaining a judgment and it is therefore respectfully requested that the trial court judgment be reversed and that the $7,763.20 be ordered returned.

The attorney for Respondent on page 2 of his brief answering the Petition stated that "The respondent is an erosion

district formed in 1959 under the Connecticut General Statutes, S764, Revision 1949 (now § 7-325) with the power to levy and collect taxes."

It had been pointed out to the Attorney for Respondent that this was impossible as in January 1959 the Revised Statute of 1959 revoked the Reversed Statute of 1949 about 5 months before Respondent's client sought to form a district under Reversed Statute 1959 Section 7-325.

The attorney had fooled the Connecticut Appellate Court into believing that he represented a municipal corporation the Appellate Court wrote "Action to foreclose municipal tax lien***"

Section 764 of the 1949 Revision while it was in existence governed formation of municipal corporations and others.

Section 7-325 of 1959 Revision governs formation of other corporations but not municipal corporations.

Section 7-330 "Formation of municipal districts governs formations of municipal corporations in the 1959 Revision. His client had not made use of this section.

Having fooled the Conn. Appellate Court he has tried the same procedure with this United States Supreme Court although this distinction had been fully called to his attention previously.

His purpose seems to be that he would gain favorable treatment given to municipal district corporations and felt he could not meet the burden of proof as to whether a Section 7-325 corporation (district) had been legally formed.

In Exhibit B, Affidavit of Notice, found on page 8 of Petitioner's main brief it is stated as follows:

2. They (the Selectmen) caused notice to be given of a meeting *** by

> (c) causing a copy of the notice to be published on August 6th and August 7th 1959 in the New Haven Register ***.

At this point the above could mean that publication was to be done in the future if such interpretation is correct it is not proof of publication made but the above meaning is wiped out by the following.

3. A copy of said notice, as the same appeared in said newspaper is attached hereto and made a part of this affidavit [Attached are two proofs one endorsed at the end Aug. 6, 1959 Register, the other endorsed at the end Aug. 7, 1959 Register]

At the end of the "Affidavit of Notice" sheet there is the following, "Subscribed and sworn to this 6th day of August, 1959, before me. Notary Public, name given (at this point it is clear the affidavit does not speak of something to be done in the future but more damaging is the fact that the affidavit belies itself as no one can truthfully swear on August 6, 1959 that the attached notice was actually published on August 7, 1959. Therefore, under both interpretation it is not proof of publication and there is nothing else in the case proving publication or was even offered as such proof.

I ordered the entire transcript so Respondent's attorney could try to prove this statement wrong.

Therefore it is possible to state that there was no proof of the requisite publication.

That some of the petition signers would have showed up at a meeting referred to in the petition they signed is no proof of publication and if perhaps a handful of people got notice by word of mouth there is still no notice of publication and EVEN IF THERE WERE PUBLICATION IT WAS TOTALLY DEFECTIVE AS POINTED OUT ABOVE AND IN THE PETITION AT PAGE 10 THEREOF.

I went to the Yale University Library after being told at the New Haven Register that all their reels of past publications had been turned over to the Yale library.

At Yale the librarian put the reels in the machine for August 1959 and I went through them and could find no publication of

the proofs which the Selectmen had or any other matter that dealt with publication of notice of hearing or any related matter. I so testified and the attorney for Respondent had all the next day or any other time to make the same search.

Had publication been made it is inconceivable that a large number of persons would not have attended and many to oppose the formation of the District that tax them.

It is also inconceivable that had publication been made that affidavit of publication would have been obtained from the publisher as proof of publication.

There was no check or copy of a check paying for publication as proof of publication.

There is no evidence that, out of the hundreds that would be subject to taxation should a District be formed, that anyone of them saw a published notice.

Since 27 persons signed the petition they could be expected to attend even without publication by virtue of the fact that the petition carried a statement of a hearing date and possibly a few who had been approached but refused to sign might attend.

The hardcore group behind this illegal "Linden Shore District" is not only illegally taxing defenseless landowner but is also leasing out positions in the waters of Long Island Sound in front of the one-half mile of waterfront boardering the strip of land they claim and on the witness stand the President admitted that the "Linden Shore District had no right to do so and had no rights offshore and that the procedure was therefore illegal and further in the Deed from the Church to the "Linden Shore District there is a reverter clause to the effect that the waterfront strip of about one-half mile in length and about an average of 80 feet wide is to revert to the Church if "Linden Shore District engages in any other activity than that of taking care of erosion and so reverter has taken place but it is hushed up thus cheating the Church member of their land.

This illegal leasing of stake positions out of side of the high water mark has resulted in my stake being taken out and the position leased to someone else thus preventing me from having my stake in that position as it had been for the period 1924 to when the Linden Shore District commenced to illegal lease out of the position I had used in front of my house which is back across the road from the waterfront land strip.

Two voluntary contribution organization namely the Indian Neck Improvement Association and the Montgomery Parkway Association existing as far back as 1922 when I first went to Indian Neck (the area herein involved) had taken care of everything that this "Linden Shore District" has now tried to cut into.

At one of the meetings of one of the voluntary associations it was moved that boat ramps be put into the shore waters at the associations' expense. The motion was defeated and it was pointed out that this boat group should bear the expense as this was for the benefit of only a few.

Seeing that they could not force others to pay for what they wanted this hardcore proceed to plan for a taxing district to force the others to pay. That they were trying to turn the water front from one of the most beautiful areas into a boat yard and cut into the swimming did not bother them, they wanted to, and have since, put up boat racks along the shore. They were never there before.

They were able to get 25 persons to sign a petition and without first calling a meeting went to the three selectmen who with no opposition present on August 5, 1959 signed a paper and on August 6, 1959 swore that advertisements had been made on August 7, 1959 a day not yet arrived.

A record submitted dealing with a meeting on August 20, 1959 did not state how many appeared it is submitted that if 80,100 or more appeared it would have been stated.

If only the 28 signers of the petition and a handful of others appeared confirmation by a substantiated majority would have no significance.

The Courts attention is called to the fact that the NO facts are cited in the trial Courts decision to justify its position taken in its Decision. The entire transcript was made available to Plaintiff's attorney along with all exhibits and he was unable to find any material to sustain the Courts decision and in facts there is NO evidence to sustain the decision.

The Courts attention is called to page 10 of Petitioner's main brief dealing with the strange disappearance of a document handed to me while on the witness stand.

It should be noted that the taxes alleged herein were not for a public purpose but only to satisfy the desire of a few who never were incorporated as a district who wanted to keep town people out of the area and to satisfy the desire of the few whose main object was as above-stated and to get illegal control of the waterfront and boat stakes in and out of the water and lines, all non public aims and illegal as to stakes in the water. The result is that boat racks have been put on the land which they had obtained from the Church by deed which stated that the granter should lose the land by reverter if they engaged in any task but that handling erosion. Boat racks are the first step towards turning this beautiful area into a boat yard, until the group came into the picture no boats were parked on the shore front.

Petitioner was never given any notice of any lien being placed on Petitioners property and only learnt about the filings when the summons and complaint were served.

That such information was withheld and suit not started earlier indicates that there was question in the minds as to whether the district had in fact been formed.

The Respodent attorney in his answering brief states that I (Petitioner) am asking your Honors to change the facts that appear, to have a retrial as to them.

They are all in my favor (showing no proper publication) I would not want them changed.

I ask that your Honors accept the facts and then apply the law pertinent to those facts.

There are no facts which show that publication was made in the manner prescribed by C.G.S § 7-325 and, against the General Denial, Respondent has failed to prove its alleged case.

The facts are clear that even if there was a publication it is fatally defective as not giving the notice that the Legislature of the State of Connecticut has set up as a prerequisite to the formation of a District under it statute CGS § 7-325.

The laws of a State cannot be rewritten by a court—they can not be construed or interpreted where they are clearly expressed as in this case leaving no room for construction or interpretation. The Court cannot constitutionally refuse to apply a law which is proper and within the power of the Legislature to make and is applicable to the facts.

The law C.G.S. § 7-325 is mandatory in its terms and clear and concise and notice is the heart of the statute.

If the prerequisites are not met there is a jurisdictional failure fatal to the formation of a District.

No subsequent meeting can cure the defect. Nothing that Petitioner has done or failed to do can cure the defeat.

Those who have been deprived of the proper notice cannot waive it since the notice herein is of vital importance to the state and its constituents as well as the persons entitled to notice.

The legislature in its wisdom has determined to let certain corporation (Districts) be formed if the prerequisites which the legislature has set forth which give essential notice to those who may be taxed is complied with.

The Legislature by the law has set up what is due process to accomplish the result.

If the Courts disagree with the laws they can not rewrite the law. If the Court overthrows the law then there is no law and if no law NO Corporation (District) can be formed. A false corporation has no standing in Court. It is a non-entity. Just as the Linden Shore District is a non-entity.

The question of non-entity can be raised at any time in any court and is jurisdictional and must be decided forthwith. Any prior action before the question is raised and settled is held suspended in status quo with nothing to enforce it until the question is answered and the matter is closed or allowed to proceed.

For a Court to refuse to apply a law which is valid is to deprive one of due process and equal protection.

The facts relied upon by Petitioner are all facts supplied by the Respondent and were first disclosed at the trial before Respondent had closed his direct examination and Petitioner immediately moved for dismissal.

The trial courts conclusions are clearly erroneous when tested with the facts SUPPLIED BY RESPONDENT not me at the trial.

It is respectfully requested that the Court read page 10 of Petitioner brief dealing with the strange disappearnce of an exhibit. It is unfortunate that Petitioner has not completely recovered from a violent attack of influenza quite a while ago and though the germ has long since ceased to exist the damage persists.

Petitioner realizes that this motion paper is not up to what it could be but feels that it does show that there is no Linden Shore District but ony a group acting without legal recognition and neither it nor they have any right to legally tax against Petitioner.

It is respectfully requested then that judgment in the trial court be reversed and the $7,763.26 be ordered returned to Petitioner.

Respectfully submitted,

Carol C. Johnson
Petitioner Pro Se
600 West 111 Street
New York, New York 10025
(212) 663-5445